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COMMITTEE ON THE RIGHTS OF THE CHILD

Twelfth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Nepal

1. The Committee considered the initial report of Nepal (CRC/C/3/Add.34) at its 301st to 303rd meetings (CRC/C/SR.301-303), held on 29 and 30 May 1996 and adopted* the following concluding observations:

A. Introduction

2. The Committee expresses its appreciation to the Government of Nepal for the submission of its initial report, its written information in reply to the questions set out in the list of issues (CRC/C.12/WP.3) as well as the additional information provided by the State party during the dialogue with the Committee during which the representatives of the State party indicated in a self-critical manner not only the policy and programme directions, but also the difficulties encountered during implementation of the Convention.

B. Positive aspects

3. The Committee notes the efforts made by the Government in the field of law reform, especially the adoption of a new Constitution - with a special section to ensure the rights of the child - and the Children's Act which covers many areas concerning children's rights. The Committee notes with

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* At the 314th meeting, held on 7 June 1996.

appreciation that the Government is willing to review its present legislation including in relation to the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, as well as a system of compensation to the victims. It also welcomes the fact that the delegation has confirmed the Government's willingness to ratify International Labour Organization Convention No. 138.

4. The Committee welcomes the Government's efforts to establish mechanisms to deal with children's issues and the question of children's rights, in particular the Central Child Welfare Board and the District Child Welfare Boards. It also notes with satisfaction the recent establishment of a National Council for Women and Child Development and of a Child and Women Development Section in the National Planing Commission Secretariat.

5. The Committee also notes with appreciation the openness of the State party to international advice and technical assistance to ensure full implementation of the provisions of the Convention on the Rights of the Child, including in the fields of discrimination, child labour, child trafficking, sale of children, and the administration of juvenile justice.

6. The Committee notes with satisfaction that the State party has adopted a National Plan of Action and has formulated a 10-Year National Programme of Action for Children and Development for the 1990s.

7. The Committee welcomes the readiness of the State party to collaborate with the non-governmental organization community, including children's organizations, which was reflected in the drafting process of the Government's report and in the presence during the dialogue of a child representative of a non-governmental organization.

8. The Committee welcomes the decision of the Government to hold a press conference in Nepal prior to the consideration by the Committee of its initial report, as a means to create awareness in the public at large of the international commitments undertaken to promote and protect children's rights. It is further encouraged by the statement by the delegation that it will present the concluding observations of the Committee in another press conference upon return to Nepal.

C. Factors and difficulties impeding the implementation of the Convention

9. The Committee notes that Nepal is one of the poorest countries of the world where more than half the population lives in absolute poverty which mainly affects the most vulnerable groups and hampers the enjoyment of children's rights. This reality, added to the foreign debt and the debt servicing, represents serious difficulties affecting the degree of fulfilment of the Government's obligations under the Convention.

D. Principal subjects of concern

10. The Committee is concerned at the inadequate measures adopted to ensure that national legislation fully conforms with the principles and provisions of the Convention. The Committee notes in particular the lack of conformity of

legislative provisions concerning non-discrimination including in relation to marriage, inheritance and parental property, torture and corporal punishment. The Committee is also concerned about the gap between existing legislation and its practical implementation.

11. The Committee expresses its concern that the State party has not fully taken into account in its legislation and policy-making the general principles of the Convention: article 2 (principle of non-discrimination), article 3 (principle of the best interests of the child), article 6 (right to life, survival and development) and article 12 (respect for the views of the child).

12. The Committee is particularly concerned at the insufficient measures adopted to ensure the effective implementation of the principle of non-discrimination. It notes the persistent discriminatory attitudes towards girls, as reflected in the prevailing son preference, the persistence of early marriages, the notably lower school attendance of girls and their higher drop-out rate. It also is concerned at the different marriage age of girls and boys which is not in conformity with article 2 of the Convention. The Committee is further concerned at the caste system and traditions such as the deuki, kumari and devis. The Committee also expresses its concern at section 7 of the Children's Act which allows parents, members of the family and teachers to beat a child "if it is thought to be in the interest of the child", as well as at the fact that, as recognized in the State party's report, the views of the child are unlikely to be respected. The persistence of such traditional practices and attitudes seriously hampers the enjoyment of the rights of the child.

13. The Committee is concerned at the slow pace of the State party in establishing an efficient coordination mechanism between relevant ministries, as well as between central and local authorities, in the implementation of policies for the promotion and protection of the rights of the child.

14. The Committee is concerned at the insufficient attention paid to systematic and comprehensive data collection, identification of appropriate indicators, as well as to a monitoring mechanism for all areas covered by the Convention and in relation to all groups of children, including children belonging to minorities, to lower castes, children of very poor families, children in rural areas, disabled children, children placed in institutions, children victims of sale, trafficking and prostitution and children living and/or working on the streets.

15. As regards the implementation of article 4 of the Convention, the Committee is concerned about the failure of the Government to accord priority to the implementation of the economic, social and cultural rights of children to the maximum extent of available resources. In the view of the Committee, insufficient attention has been paid to the most disadvantaged groups, in both rural and urban areas.

16. The Committee is concerned at the insufficient steps undertaken to ensure birth registration of children, particularly those living in remote areas, and to the adverse effects arising therefrom for the enjoyment of their fundamental rights.

17. The Committee is worried by the high rate of school drop-outs, especially among girls living in rural areas, and the high incidence of child labour. It is also concerned by the difficulties encountered by children living in rural and remote areas and disabled children in securing basic services, such as health care, social services and education.

18. In the light of article 28, the Committee wishes to express its deep concern about the fact that primary education is not compulsory for all children. It is also concerned by the high level of illiteracy among children and adults.

19. The Committee is concerned that appropriate measures have not yet been taken to effectively prevent and combat any form of ill-treatment and corporal punishment of children within the family. It is seriously worried about the absence of adequate legislation and mechanisms designed to ensure the recovery and reintegration of child victims in the light of article 39 of the Convention.

20. The large and growing number of children who, owing to rural exodus, extreme poverty, and violence and abuse within the family, are forced to live on the streets, are deprived of their fundamental rights and are exposed to various forms of exploitation, is a matter of deep concern.

21. The Committee is worried about the fact that a large number of children are involved in child labour, including in the informal sector, particularly as domestic servants, in agriculture and in the family context.

22. In view of the scale of the problem of sale and trafficking of children, especially girls, the Committee is deeply concerned about the absence of a specific law and policy to combat this phenomena.

23. The Committee is concerned by the increasing phenomenon of child prostitution that affects in particular children belonging to the lower castes. It is worried about the absence of measures to combat this phenomenon and the lack of rehabilitation measures. The Committee is also concerned at the inadequate measures taken to address the situation of children addicted to drugs.

24. The situation of the administration of juvenile justice and in particular its compatibility with articles 37 and 40 of the Convention, as well as other relevant standards such as the "Beijing Rules", the "Riyadh Guidelines" and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, is a matter of concern to the Committee. It is concerned, inter alia, about the too-low age of criminal responsibility, about the provision of the Muluki Ain No. 2 that allows mentally ill children to be put in jail and chained, and the legal definition of torture which is not in compliance with article 37 (a) of the Convention.

E. Suggestions and recommendations

25. The Committee recommends that the State party undertake, in all necessary areas, adequate legal reform to ensure full conformity of its legislation with all the provisions of the Convention, in particular that it take fully into account the Convention's general principles (arts. 2, 3, 6 and 12).

26. In order to effectively combat persisting discriminatory attitudes and negative traditions affecting girls, the Committee encourages the State party to launch a comprehensive and integrated public information campaign aimed at promoting children's rights within the society, and particularly within the family. The Committee also recommends that the State party ensure specific training on the Convention for professional groups working with and for children, including teachers, social workers, health personnel, judges and law enforcement officials. International cooperation with, inter alia, the Centre for Human Rights and the United Nations Children's Fund could be sought to this effect.

27. The Committee is of the opinion that greater efforts are required to make the provisions and principles of the Convention widely known and understood by adults and children alike, in the light of articles 12 and 42 of the Convention. It encourages the State party to further increase public awareness of the participatory rights of children, as well as to consider incorporating the Convention in the school curriculum.

28. The Committee recommends that the State party take all necessary steps to strengthen coordination between the different governmental mechanisms involved in children's rights, at both central and local levels, and ensure close cooperation with non-governmental organizations.

29. The Committee further recommends that the State party undertake to gather all necessary information on the situation of children in the various areas covered by the Convention and in relation to all groups of children, including those belonging to the most vulnerable groups. It also suggests that a multidisciplinary monitoring system be established to assess the progress achieved and difficulties encountered in the realization of the rights recognized by the Convention at the central and local levels, paying particular attention to the adverse effects of economic policies on children. Such a monitoring system should enable the State party to shape appropriate policies and to combat prevailing social disparities and traditional prejudices. The Committee also encourages the State party to consider the establishment of an independent mechanism, such as an Ombudsperson or a human rights commission, to monitor the realization of the rights of the child and to deal with individual complaints relating thereto.

30. With respect to the implementation of article 4 of the Convention, the Committee recommends that particular attention be paid to the need to ensure budget allocations, to the maximum extent of available resources, to implement economic, social and cultural rights in the light of the principles of non-discrimination and the best interests of the child. International cooperation resources should be channelled towards the realization of children's rights and efforts should be pursued to reduce the negative impact of foreign debt and debt servicing on children.

31. Children's birth registration should be given priority to ensure that every child is recognized as a person and enjoys his/her full rights. The Committee encourages further steps to ensure the birth registration of children, including the establishment of mobile registration offices and registration units in schools.

32. In the light of article 2 of the Convention, the Committee also recommends that the State party take all necessary measures to reduce the drop-out rate of girls in rural and urban areas and to prevent their involvement in child labour or prostitution, and to reinforce the access to basic services (health, education and social care) for children in rural areas and for disabled children throughout the country. The Government should in particular take concrete measures, including awareness campaigns to change negative attitudes, to protect children belonging to the lowest castes from any form of exploitation.

33. In order to promote the protection of refugee children, the Committee encourages the State party to consider ratifying the 1951 Convention relating to the Status of Refugees.

34. In the light of article 19 of the Convention, the Committee further recommends that the Government take all appropriate measures, including of a legislative nature, to combat any form of ill-treatment and sexual abuse of children, including within the family. It suggests, inter alia, that the authorities gather information and initiate a comprehensive study to improve the understanding of the nature and scope of the problem and set up social programmes to prevent all types of child abuse and neglect.

35. The Committee further recommends that firm measures be taken to ensure the right of survival of all children in Nepal, including those who live and/or work in the streets. Such measures should aim at the effective protection of children against any form of exploitation, particularly child labour, prostitution, drug-related activities and child trafficking and sale.

36. In regard to the problem of child labour, the Committee suggests that Nepal consider ratifying ILO Convention No. 138 concerning the minimum age for admission to employment and review all relevant national legislation with a view to bringing it into conformity with the Convention on the Rights of the Child and other relevant international standards. Child labour laws should be enforced, a system of inspection established, complaints investigated and severe penalties imposed in case of violation. Special attention should be paid to the protection of children involved in the informal sector, including as domestic servants. The Committee suggests that the Government consider seeking cooperation from ILO in this area.

37. In order to effectively combat intercountry trafficking and sale of children, the Committee strongly suggests that Nepal take all appropriate measures, including legislative and administrative ones, and encourages the State party to consider adopting bilateral measures to prevent and eliminate such phenomena. Awareness campaigns should be developed at the community level and a thorough monitoring system should be established.

38. In the field of the administration of juvenile justice, the Committee recommends that legal reform be pursued and take fully into account the Convention on the Rights of the Child, in particular articles 37, 39 and 40, and other relevant international standards in this field, such as the "Beijing Rules", the "Riyadh Guidelines" and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. Particular attention should be paid to raising the minimum age of criminal responsibility, the

establishment of juvenile courts, the enforcement of existing legislation, the prevention of juvenile delinquency, alternatives to deprivation of liberty and institutional care, the protection of the rights of children deprived of liberty, respect for fundamental rights and legal safeguards in all aspects of the juvenile justice system, and the full independence and impartiality of the juvenile judiciary. The law permitting the placement of mentally disturbed children in jails should be reviewed as a matter of urgency.

39. The Committee suggests that a technical assistance programme be developed with the Centre for Human Rights, including in the areas of law reform in the field of children's rights and training of professionals working with children. Special attention should be paid to training programmes on the relevant international standards, in particular for judges, law enforcement officials, correctional officers and social workers. Attention should also be given to awareness and information campaigns on the Convention on the Rights of the Child. Moreover, consideration should be pursued in relation to the establishment of a commission on human rights or other independent mechanisms to monitor the realization of children's rights issues.

40. In the light of the areas of concern identified by the Committee and the recommendations made, the Committee suggests that the Government consider seeking technical assistance from relevant international organizations, including International Labour Organization, United Nations High Commissioner for Refugees, United Nations Children's Fund, World Health Organization. Consideration may be given to the establishment of a task force of the international organizations present in the country with a view to promoting and protecting the rights set forth in the Convention. The Committee also encourages the international community to assist the State party in its current efforts.

41. The Committee encourages the State party to disseminate widely its initial report, the summary records of the discussion and the concluding observations adopted by the Committee following its consideration of the report. The Committee would like to suggest that these documents be brought to the attention of Parliament as a means of ensuring a follow-up to suggestions and recommendations made by the Committee.